

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HONEYWELL INTERNATIONAL INC.)	
and HONEYWELL INTELLECTUAL)	
PROPERTIES INC.,)	
)	
Plaintiffs,)	
)	C.A. No. 04-1338-KAJ
v.)	
)	
APPLE COMPUTER, INC.; et al.,)	
)	
Defendants.)	
)	
<hr/>)	
OPTREX AMERICA, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1536-KAJ
)	
HONEYWELL INTERNATIONAL INC.)	
and HONEYWELL INTELLECTUAL)	
PROPERTIES INC.,)	
)	
Defendants.)	

**HONEYWELL’S MOTION FOR CONSOLIDATION AND STAY
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 42**

Honeywell International Inc. and Honeywell Intellectual Properties Inc. (collectively, “Honeywell”) hereby move the Court, pursuant to Federal Rule of Civil Procedure 42, for consolidation of Civil Action No. 04-1536-KAJ, a recently filed declaratory judgment action involving Honeywell’s 5,280,371 patent (“the ‘371 patent”), with Civil Action No. 04-1338-KAJ, Honeywell’s earlier filed main infringement action involving the same patent. Honeywell seeks consolidation for purposes of discovery only, and also seeks a corresponding post-discovery stay of Civil Action No. 04-1536, pending resolution of Civil Action No.

04-1338. The grounds for this motion are set forth in Honeywell's Opening Brief in Support of Its Motion for Consolidation and Stay, which is filed contemporaneously herewith.

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March 10, 2005

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RULE 7.1.1 CERTIFICATION

The undersigned counsel for Honeywell International Inc. and Honeywell Intellectual Properties Inc. (hereinafter “Honeywell”), hereby certifies that counsel for Honeywell conferred with counsel for the opposing parties in C.A. No. 04-1338-KAJ and C.A. No. 04-1536-KAJ and was unable to reach agreement on the relief sought by this motion.

/s/ Thomas C. Grimm

Thomas C. Grimm (#1098)

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FOR THE DISTRICT OF DELAWARE

HONEYWELL INTERNATIONAL INC.)	
and HONEYWELL INTELLECTUAL)	
PROPERTIES INC.,)	
)	
Plaintiffs,)	
)	C.A. No. 04-1338-KAJ
v.)	
)	
APPLE COMPUTER, INC.; et al.,)	
)	
Defendants.)	
)	
<hr/>)	
OPTREX AMERICA, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1536-KAJ
)	
HONEYWELL INTERNATIONAL INC.)	
and HONEYWELL INTELLECTUAL)	
PROPERTIES INC.,)	
)	
Defendants.)	

PROPOSED ORDER

WHEREAS, Honeywell International Inc. and Honeywell Intellectual Properties Inc. having moved this Court, pursuant to Federal Rule of Civil Procedure 42, for consolidation of Civil Action No. 04-1338-KAJ (Honeywell International Inc., et al. v. Apple Computer Inc., et al.) and Civil Action No. 04-1536-KAJ (Optrex America, Inc. v. Honeywell International Inc., et al.) for purposes of discovery and for post-discovery stay of Civil Action No. 04-1536 pending resolution of Civil Action No. 04-1338; and

WHEREAS, the Court having heard the parties and having found good cause for the present motion under Rule 42;

IT IS HEREBY ORDERED this ____ day of _____, 2005, that Honeywell International Inc. and Honeywell Intellectual Properties Inc.'s Motion to Consolidate and Stay is GRANTED, and Civil Action No. 04-1536-KAJ (Optrex America, Inc. v. Honeywell International Inc., et al.) is hereby consolidated with Civil Action No. 04-1338-KAJ (Honeywell International Inc., et al. v. Apple Computer Inc., et al.) for purposes of discovery, and Civil Action No. 04-1536 then being stayed for post-discovery purposes pending resolution of Civil Action No. 04-1338.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2005, I electronically filed the foregoing document with the Clerk of Court using CM/ECF, which will send notification of such filing to the following:

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I also certify that on March 10, 2005, I caused to be served true and correct copies of the foregoing document on the following in the manner indicated below:

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